

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HEZEKIAH TATUM,

Plaintiff,

v.

ERIE POLICE DEPARTMENT, et al,

Defendants.

Case No. 1:22-CV-350

MEMORANDUM ORDER

This action was received by the Clerk of Court on November 21, 2022. The matter was assigned and referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

In his complaint, Tatum alleges that two City of Erie police officers, Olszewski and Post, violated his civil rights by using excessive force and subjecting him to sexual abuse during the execution of an arrest warrant. In response to the complaint, Defendants moved for dismissal or alternatively for summary judgment.

On August 1, 2024, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the motion be treated as one for summary judgment and that summary judgment be granted. ECF No. 57. Despite being afforded the opportunity to do so, neither party has filed objections to the Report and Recommendation. Instead of objections to the Report and Recommendation, Plaintiff has filed a Notice of Appeal to the Court of Appeals for the Third Circuit. *See* ECF No. 61.

Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2). After *de novo* review of the complaint and all filings and evidence in the case, together with the report and recommendation, the following order is entered:

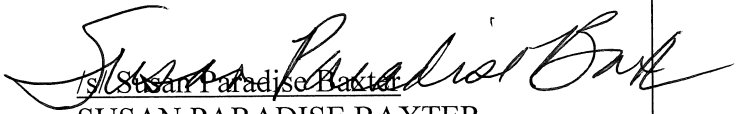
AND NOW, this 13th day of September 2024;

IT IS ORDERED that the motion to dismiss or for summary judgment [ECF No. 38] is granted.

IT IS FURTHER ORDERED that final judgment is entered in favor of Defendants and against Plaintiff pursuant to Fed.R.Civ.P. 58.

AND, IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on August 1, 2024 [ECF No. 57] is adopted as the opinion of the court.

The Clerk is directed to close this case.


SUSAN PARADISE BAXTER
United States District Judge